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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/026,147 | 12/17/2001 | Alain Silvestre | 600.1204 | 8232 |

23280 7590 09/08/2003

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EXAMINER

NASH, BRIAN D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3721 | |

DATE MAILED: 09/08/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | |
|------------------------------|-----------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/026,147 | SILVESTRE, ALAIN |
| | Examiner | Art Unit |
| | Brian D Nash | 3721 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 July 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-16, 18 and 19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-16, 18 and 19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 17 December 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____ .

DETAILED ACTION

1. This action is in response to applicant's amendment received 28 July 2003. It is acknowledged that claims 1, 2, 6-10, 14, and 16 have been amended, claim 17 has been cancelled, and new claim 19 has been added. The pending claims are now 1-16 and 18-19.

Drawings

2. This application, filed under former 37 CFR 1.60, lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings. In unusual circumstances, the formal drawings from the abandoned parent application may be transferred by the grant of a petition under 37 CFR 1.182. Figure 2 and other handwritten markings need to be corrected.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6-7 and 11-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In amended claim 6, line 1, it is not clear what claim 6 depends from or whether applicant intends claim 6 to be independent (see 2).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-11 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,578,052 to Engel et al in view of DE 197 43 020 to Hofer et al and further in view of US 4,061,326 to Proudman. Engel discloses the invention substantially as claimed including a device for analyzing fold deviations having sensors (3) and rectangular markings (I, II, III, see Figs. 1-2) applied to a printed product (see column 1, lines 49-65) on opposite sides at the edge of the product wherein the device evaluates signals from the markings and adjusts folding positions accordingly (see column 6, claim 7). Engel does not disclose an analyzing device for fold deviations for printed products conveyed in a shingle stream. However, Hofer shows a separating device for printed products conveyed in a shingle stream.

In view of Hofer, it would have been an obvious to one having ordinary skill in the art at the time of the invention to have combined the separating apparatus with the device for analyzing fold deviations for the purpose of automating the analysis of folding accuracy thereby making it faster and more reliable.

Engel also does not show an analyzing device that determines deviations via a time lag calculation. However, Proudman teaches the use of sensors to measure a time interval (see Proudman, column 1, lines 34-44) for determining fold position accuracy.

In view of Proudman, it would have been obvious to one having ordinary skill in the art to have used the method of measuring the time interval between signals generated by the markings with the device combination of Engel and Hofer for the purpose of analyzing fold position accuracy.

Regarding claims 9-10, the examiner notes that little patentable weight has been given to the product since no further structural limitations for the analyzing device are defined and it would appear that claimed invention would perform similarly regardless of the overlapping product covering a portion of the markings.

7. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,578,052 to Engel et al, DE 197 43 020 to Hofer et al, and US 4,061,326 to Proudman as applied to claims 1-11 and 18-19 above, and further in view of US 6,086,522 to Hechler. As discussed above in paragraph 6 of this office action, Engel, Hofer, and Proudman disclose the invention substantially as claimed, but do not disclose the use of software for determining at least one of the mean speed, the time lag, and the analysis for determining the folding accuracy via detection of at least one fold deviation. However, Hechler teaches the use of a programmable microprocessor (hence the use of software) in combination with a closed-loop control circuit for positional accuracy of a folding station (see Hechler, column 2, line 51 to column 4, line 11).

In view of Hechler, it would have been obvious to one having ordinary skill in the art to have used the programmable microprocessor in combination with the device combination of Engel, Hofer, and Proudman for the purpose of analyzing fold deviations in a yet faster and more reliable manner.

Response to Arguments

8. Applicant's arguments filed 28 July 2003 have been fully considered but they are not persuasive. Applicant contends, *inter alia*, that none of the prior art shows signals corresponding to a contrast change at the markings. Examiner acknowledges applicant's position; however, the prior art of record are deemed to properly obviate a claim when the prior art reference (or references when combined) teach or suggest all the claim limitations. In this instance, Engel shows a device for analyzing fold deviations by verifying the positional accuracy of folded sheets. Engel does this via sensors (3) that register markings on the passing sheets whereby the front edge of the marking changes a switch state in both of the sensors (column 3, lines 22+). The examiner construes the sensor capability of registering marking and no markings to be the equivalent of registering contrast change between light and dark markings, e.g. no marking on a sheet is the equivalent of a light-colored marking.

For the reasons above, the grounds for rejection are deemed proper.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nash whose telephone number is (703) 305-4959. The examiner can normally be reached on Monday – Thursday from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached at (703) 308-2187.

The fax numbers for this Group are:

| | |
|------------------|--------------|
| Before Final | 703-872-9302 |
| After Final | 703-872-9303 |
| Customer Service | 703-872-9301 |

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.


Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

Application/Control Number: 10/026,147
Art Unit: 3721

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Brian D. Nash
4 September 2003